

SENATE SUBSTITUTE
FOR
HOUSE BILL NO. 2061
AN ACT

To amend chapters 160 and 173, RSMo, by adding thereto four new sections relating to prohibiting antisemitic actions that threaten students and staff at educational institutions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapters 160 and 173, RSMo, are amended by
2 adding thereto four new sections, to be known as sections
3 160.014, 160.015, 173.001, and 173.002, to read as follows:

160.014. 1. As used in this section and section
2 160.015, the following terms mean:

3 (1) "Antisemitism" or "antisemitic", the International
4 Holocaust Remembrance Alliance's (IHRA) Working Definition
5 of Antisemitism, including its contemporary examples, as it
6 was adopted on May 26, 2016, as a tool and guide for
7 recognizing and combating antisemitism;

8 (2) "Educational institution", each public school and
9 school district in this state.

10 2. Each educational institution shall treat harassment
11 of or discrimination against students or employees, or
12 harassment or discrimination resulting from institutional
13 policies or programs on such educational institution's
14 campuses, that is motivated by or including antisemitism in
15 an identical manner to discrimination motivated by race.

16 3. (1) Each educational institution shall adopt a
17 policy clearly defining antisemitism utilizing context and
18 other relevant factors into such educational institution's
19 student, faculty, and employee codes of conduct and shall
20 prohibit such conduct at or by such educational institution

21 if such conduct creates an atmosphere or circumstance in
22 which individuals working at, visiting, or attending the
23 educational institution and the educational institution's
24 services and facilities either by physically impeding such
25 activity or by creating an atmosphere of fear or
26 intimidation.

27 (2) Prohibited conduct as it relates specifically to
28 antisemitism shall be incorporated into such educational
29 institution's student, faculty, and employee codes of
30 conduct and shall include penalties for harassment of and
31 discrimination against Jews in compliance with
32 antidiscrimination regulations promulgated under Title VI of
33 the federal Civil Rights Act of 1964, as amended, by the
34 United States Department of Education and the United States
35 Department of Justice.

36 4. (1) Criticism of Israel that is similar to
37 criticism toward any other country shall not be construed to
38 be antisemitic. In determining a complaint regarding
39 possible antisemitic speech relating to criticism of Israel,
40 the educational institution shall consider whether the
41 speech is explicitly related to public policy or applies
42 materially inconsistent standards, expectations, or
43 condemnation to Israel as compared with other nations in
44 comparable circumstances. Such consideration shall be one
45 factor among the totality of the circumstances and shall not
46 be independently determinative of whether the speech is
47 antisemitic. This section shall only apply if the conduct
48 relating to the speech is also determined to have created an
49 atmosphere or circumstance in which individuals working at,
50 visiting, or attending the educational institution and the
51 educational institution's services and facilities either by
52 physically impeding such activity or by creating an
53 atmosphere of fear or intimidation.

54 (2) Nothing in this section shall be applied in ways
55 that diminish or infringe upon any right protected under the
56 First Amendment to the Constitution of the United States or
57 the Constitution of Missouri.

58 (3) Nothing in this section shall be construed to
59 conflict with federal or state discrimination laws.

1 160.015. 1. (1) No educational institution shall
2 discriminate because of race, ethnicity, national origin,
3 sex, disability, religion, or marital status against a
4 student or an employee in the state system of public
5 elementary and secondary education.

6 (2) No person in this state shall, on the basis of
7 race, ethnicity, national origin, sex, disability, religion,
8 or marital status, be excluded from participation in, denied
9 the benefits of, or subjected to discrimination under any
10 program or activity or in any employment conditions or
11 practices conducted by an educational institution that
12 receives or benefits from federal or state financial
13 assistance.

14 2. An educational institution's criteria for admission
15 to a program or course shall not have the effect of
16 restricting access by persons of a particular race,
17 ethnicity, national origin, sex, disability, religion, or
18 marital status.

19 3. (1) All of an educational institution's classes
20 shall be available to all students without regard to race,
21 ethnicity, national origin, sex, disability, religion, or
22 marital status.

23 (2) This subsection shall not be construed to
24 eliminate the provision of programs designed to meet the
25 needs of students with limited proficiency in English,
26 gifted students, or students with disabilities or programs
27 tailored to students with special needs.

28 4. Guidance services, counseling services, and
29 financial assistance services in an educational institution
30 shall be available to all students equally and provided in
31 the same manner regardless of race, ethnicity, national
32 origin, sex, disability, religion, or marital status.

33 5. All education programs, activities, and
34 opportunities offered by educational institutions shall be
35 made available without discrimination on the basis of race,
36 ethnicity, national origin, sex, disability, religion, or
37 marital status.

38 6. (1) Nothing in this section shall be applied in
39 ways that diminish or infringe upon any right protected
40 under the First Amendment to the Constitution of the United
41 States or the Constitution of Missouri.

42 (2) Nothing in this section shall be construed to
43 conflict with federal or state discrimination laws.

44 7. (1) Each educational institution shall report
45 incidents and complaints of antisemitic discrimination or
46 harassment to the Title VI coordinator at the department of
47 elementary and secondary education.

48 (2) The Title VI coordinator shall establish,
49 maintain, and publicize a formal reporting process by which
50 students, parents, staff, and faculty can submit complaints
51 of antisemitic discrimination and harassment.

52 (3) The Title VI coordinator shall thoroughly
53 investigate all complaints made under this subsection.
54 After a reasonable investigation, if the coordinator
55 determines that an educational institution has engaged in,
56 allowed, or failed to sufficiently prohibit antisemitic
57 discrimination or harassment in a manner consistent with the
58 educational institution's policy adopted under subsection 3
59 of section 160.014, the department of elementary and
60 secondary education shall notify, in writing, the

61 educational institution of such determination and that such
62 educational institution is required to address the issues
63 described in such determination within thirty days after
64 receipt of such written notice.

65 (4) After the expiration of the thirty days to address
66 issues in the coordinator's determination, if the Title VI
67 coordinator determines the educational institution has
68 failed to take the necessary actions to address such issues,
69 the department of elementary and secondary education shall
70 report the coordinator's determination to the United States
71 Department of Education and the United States Department of
72 Justice by making a complaint under Title VI of the federal
73 Civil Rights Act of 1964, as amended.

74 (5) The Title VI coordinator shall compile an annual
75 report on complaints of antisemitic discrimination and
76 harassment as well as other Title VI complaints monitored,
77 reported, and investigated under this section. Such report
78 shall be published on the website of the department of
79 elementary and secondary education and submitted to the
80 general assembly before July first of each year.

173.001. 1. As used in this section and section
2 173.002, the following terms mean:

3 (1) "Antisemitism" or "antisemitic", the International
4 Holocaust Remembrance Alliance's (IHRA) Working Definition
5 of Antisemitism, including its contemporary examples, as it
6 was adopted on May 26, 2016, as a tool and guide for
7 recognizing and combating antisemitism;

8 (2) "Educational institution", a public postsecondary
9 educational institution governed or supervised by a:

- 10 (a) Board erected under chapter 172, 174, 175, or 178;
11 (b) Board of trustees of a community college; or
12 (c) State board for any other technical school.

13 2. Each educational institution shall treat harassment
14 of or discrimination against students or employees, or
15 harassment or discrimination resulting from institutional
16 policies or programs on such educational institution's
17 campuses, that is motivated by or including antisemitism in
18 an identical manner to discrimination motivated by race.

19 3. (1) Each educational institution shall adopt a
20 policy clearly defining antisemitism utilizing context and
21 other relevant factors into such educational institution's
22 student, faculty, and employee codes of conduct and shall
23 prohibit such conduct at or by such educational institution
24 if such conduct creates an atmosphere or circumstance in
25 which individuals working at, visiting, or attending the
26 educational institution and the educational institution's
27 services and facilities either by physically impeding such
28 activity or by creating an atmosphere of fear or
29 intimidation.

30 (2) Prohibited conduct as it relates specifically to
31 antisemitism shall be incorporated into such educational
32 institution's student, faculty, and employee codes of
33 conduct and shall include penalties for harassment of and
34 discrimination against Jews in compliance with
35 antidiscrimination regulations promulgated under Title VI of
36 the federal Civil Rights Act of 1964, as amended, by the
37 United States Department of Education and the United States
38 Department of Justice.

39 4. (1) Criticism of Israel that is similar to
40 criticism toward any other country shall not be construed to
41 be antisemitic. In determining a complaint regarding
42 possible antisemitic speech relating to criticism of Israel,
43 the educational institution shall consider whether the
44 speech is explicitly related to public policy or applies
45 materially inconsistent standards, expectations, or

46 condemnation to Israel as compared with other nations in
47 comparable circumstances. Such consideration shall be one
48 factor among the totality of the circumstances and shall not
49 be independently determinative of whether the speech is
50 antisemitic. This section shall only apply if the conduct
51 relating to the speech is also determined to have created an
52 atmosphere or circumstance in which individuals working at,
53 visiting, or attending the educational institution and the
54 educational institution's services and facilities either by
55 physically impeding such activity or by creating an
56 atmosphere of fear or intimidation.

57 (2) Nothing in this section shall be applied in ways
58 that diminish or infringe upon any right protected under the
59 First Amendment to the Constitution of the United States or
60 the Constitution of Missouri.

61 (3) Nothing in this section shall be construed to
62 conflict with federal or state discrimination laws.

173.002. 1. (1) No educational institution shall
2 discriminate because of race, ethnicity, national origin,
3 sex, disability, religion, or marital status against a
4 student or an employee in the state system of public
5 postsecondary education.

6 (2) No person in this state shall, on the basis of
7 race, ethnicity, national origin, sex, disability, religion,
8 or marital status, be excluded from participation in, denied
9 the benefits of, or subjected to discrimination under any
10 program or activity or in any employment conditions or
11 practices conducted by an educational institution that
12 receives or benefits from federal or state financial
13 assistance.

14 2. An educational institution's criteria for admission
15 to a program or course shall not have the effect of
16 restricting access by persons of a particular race,

17 ethnicity, national origin, sex, disability, religion, or
18 marital status.

19 3. (1) All of an educational institution's classes
20 shall be available to all students without regard to race,
21 ethnicity, national origin, sex, disability, religion, or
22 marital status.

23 (2) This subsection shall not be construed to
24 eliminate the provision of programs designed to meet the
25 needs of students with limited proficiency in English,
26 gifted students, or students with disabilities or programs
27 tailored to students with special needs.

28 4. Guidance services, counseling services, and
29 financial assistance services in an educational institution
30 shall be available to all students equally and provided in
31 the same manner regardless of race, ethnicity, national
32 origin, sex, disability, religion, or marital status.

33 5. All education programs, activities, and
34 opportunities offered by educational institutions shall be
35 made available without discrimination on the basis of race,
36 ethnicity, national origin, sex, disability, religion, or
37 marital status.

38 6. (1) Nothing in this section shall be applied in
39 ways that diminish or infringe upon any right protected
40 under the First Amendment to the Constitution of the United
41 States or the Constitution of Missouri.

42 (2) Nothing in this section shall be construed to
43 conflict with federal or state discrimination laws.

44 7. (1) Each educational institution shall report
45 incidents and complaints of antisemitic discrimination or
46 harassment to the Title VI coordinator of the coordinating
47 board for higher education under the department of higher
48 education and workforce development.

49 (2) The Title VI coordinator shall establish,
50 maintain, and publicize a formal reporting process by which
51 students, parents, staff, and faculty can submit complaints
52 of antisemitic discrimination and harassment.

53 (3) The Title VI coordinator shall thoroughly
54 investigate all complaints made under this subsection.
55 After a reasonable investigation, if the coordinator
56 determines that an educational institution has engaged in,
57 allowed, or failed to sufficiently prohibit antisemitic
58 discrimination or harassment in a manner consistent with the
59 educational institution's policy adopted under subsection 3
60 of section 173.001, the coordinating board for higher
61 education shall notify, in writing, the educational
62 institution of such determination and that such educational
63 institution is required to address the issues described in
64 such determination within thirty days after receipt of such
65 written notice.

66 (4) After the expiration of the thirty days to address
67 issues in the coordinator's determination, if the Title VI
68 coordinator determines the educational institution has
69 failed to take the necessary actions to address such issues,
70 the coordinating board for higher education shall report the
71 coordinator's determination to the United States Department
72 of Education and the United States Department of Justice by
73 making a complaint under Title VI of the federal Civil
74 Rights Act of 1964, as amended, except that those complaints
75 solely containing instances of political or religious speech
76 protected under the First Amendment to the Constitution of
77 the United States or the Constitution of Missouri shall not
78 be reported, compiled, or published by the coordinating
79 board for higher education.

80 (5) The Title VI coordinator shall compile an annual
81 report on complaints, except those complaints that solely

82 contain instances of political or religious speech protected
83 under the First Amendment to the Constitution of the United
84 States or the Constitution of Missouri, of antisemitic
85 discrimination and harassment as well as other Title VI
86 complaints monitored, reported, and investigated under this
87 section. Such report shall be published on the website of
88 the coordinating board for higher education and submitted to
89 the general assembly before July first of each year.

90 (6) No educational institution shall create a list,
91 registry, or database of students based on their religious
92 or political views, opinions, or expressions, which are
93 protected under the First Amendment to the Constitution of
94 the United States or the Constitution of Missouri.